HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.26108 OF 2006

Between:

D. Seshagiri Rao and two others

…Petitioners

AND

Municipal Corporation of Hyderabad,
Rep., by its Commissiioner, Hyderabad
and another

...Respondents

: O R D E R :

Counsel for the petitioner : Shri V. Venkataramana
Counsel for the Respondents : Smt. G. Jyothi Kiran

04th January, 2007

Per G.S.SINGHVI, CJ

In this petition, the petitioners have prayed for restraining the respondents from demolishing the shops existing in the stilt floor area of Aditya Apartments bearing premises No.6-3-671/1 to 6, Punjagutta, Hyderabad, which are in their possession.

The main ground on which the petitioners have questioned the legality of action initiated by the respondents is that they were not given statutory notices prescribed under Sections 452 and 636 of the Hyderabad Municipal Corporation Act, 1955 and were not heard before steps were taken to demolish the shops.

Shri V. Venkataramana referred to order dated 17-7-1997 passed by the learned Single Judge in Writ Petition No. 12705 of 1995, **M/s. Senala Investments and four others vs. Municipal Corporation of Hyderabad** to substantiate the petitioners existence at the site for the last more than one decade and submitted that even though they do not have formal lease deed executed by the builder, the authorities of the Corporation cannot demolish the shops without hearing them and without them without following the procedure established by law.

The record produced by Smt. Jyothi Kiran, learned counsel for the respondents, shows that notice regarding the proposed demolition of the unauthorised structure constructed in Aditya Apartments was given to the builder sometime in the month of December 2006, but no notice was given to the petitioners.

In view of the above, we are inclined to take the view that the action initiated by the respondents is legally infirm and is liable to be invalidated.

At this stage, Shri V. Venkataramana came out with a fair offer by saying that his clients would vacate the unauthorised structure and

shift their business activity to other places provided reasonable time is given to them for this purpose. He submitted that six months' time may be given to the petitioners to shift from the present site.

Smt.Jyothi Kiran, learned counsel for the Corporation says that she does not have any objection if some time is allowed to the petitioners to vacate the unauthorisedly constructed shops.

In our opinion, six months is too long period to be given to the petitioners for vacating the unauthorisedly constructed shops and we feel that ends of justice would be met if they are allowed to continue to do business activity for four months within which they must shift their activity to other premises and vacate the shops.

In view of the above, the writ petition is disposed of with the following directions:

1) Within two weeks, the petitioners shall furnish written undertakings along with affidavits to the Chief City Planner, Municipal Corporation of Hyderabad that they would vacate the illegally constructed shops, which are in their possession.

2) If the petitioners furnish the required undertakings, then they shall be allowed to carry on business activity for next four months and the shops in question shall not be demolished.

3) If the petitioners fail to give undertakings in terms of the statement made by Shri V. Venkataramana and clause (1) above, then the authorities of the Corporation shall be free to demolish the shop of the concerned petitioner(s).

As a sequel to disposal of the writ petition in the manner indicated above, WPMP No.33532 of 2006 filed by the petitioners for interim relief is disposed of as infructuous.

G.S. SINGHVI, C.J.

January 04, 2007

C.V. NAGARJUNA REDDY, J.

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